

TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321

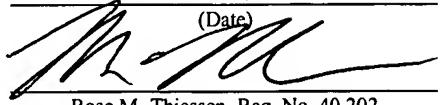
Applicant : Shults, et al.
Appl. No. : 10/657843
Filed : September 9, 2003
For : DEVICE AND METHOD FOR
DETERMINING ANALYTE
LEVELS
Examiner : Nasser, R. L.
Group Art Unit : 3736

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

October 8, 2004

(Date)


Rose M. Thiessen, Reg. No. 40,202

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Empowerment of Attorney

Pursuant to 37 C.F.R. § 1.321(b) the undersigned attorney of record is empowered to act on behalf of the Assignee, DexCom, Inc. ("Assignee"), by virtue of a Power of Attorney executed on October 5, 2004, a copy of which is attached.

Right of Assignee and Ownership

In accordance with 37 C.F.R. § 3.73(b), Assignee represents that it is the owner of a 100 percent interest in the above-identified application and co-owned, co-pending, Application No. 09/447,227, all by virtue of assignments recorded at Reel No. 015209, Frame No. 0801 and Reel No. 011887, Frame No. 0546 by the Assignment Branch of the Patent and Trademark Office. The Assignee represents that, to the best of Assignee's knowledge and belief, title is in the Assignee seeking to take action.

Disclaimer by Assignee

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Assignee hereby disclaims, except as provided below, the terminal part of any patent granted on the above-referenced application that would extend beyond the expiration date of the full statutory term of any patent issuing from U.S. Patent Application No. 09/447,227, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the instant application and any patent issuing from U.S. Patent Application No. 09/447,227 are co-owned. This agreement extends to any patent granted on the above-referenced application and shall be binding on its successors or assigns.

Assignee does not disclaim any terminal part of any patent granted on the above-referenced application prior to the earlier of the expiration date of the full statutory term of any patent issuing from U.S. Patent Application No. 09/447,227, and that of any patent issuing on the above-identified application in the event that either one later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title stated above.

This Terminal Disclaimer is accompanied by the \$55 fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Oct 8, 2004

By:



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